CONFIDENTIAL

DISCIPLINARY COMMITTEE **[BENCH – II (2026-2027)]**

[Constituted under Section **21B** of the Chartered Accountants **Act,1949]**

Findings under Rule **18(17)** read with Rule 19 **(2)** of the Chartered Accountants (Procedure of **Investigations** of Professional and Other Misconduct and Conduct of Cases) Rules, **2007.**

File **No**:-**[PPR/MISC/140/2023/DD/58/TAQRB/INF/2023-DC/2110/2025]**

In the matter of:
CA. **Patel JayeshKumar** Prahladbhai (M. No. **033234),**
35 III Floor B Block Ajanta Commercial Centre
Ashram Road
Ahmedabad – 380014

Respondent

MEMBERS PRESENT:
CA. Prasanna **Kumar** D, Presiding Officer (In person)
CA. Mahesh Shah, Government Nominee (In person)
CA. Satish Kumar **Gupta,** Member (In person)
CA. Hans Raj Chugh, Member (In person)

DATE OF FINAL HEARING: **31st** July 2026
DATE OF DECISION TAKEN: **15th** October 2026
DATE OF PRONOUNCEMENT OF **DECISION:29th** October 2026

PARTY PRESENT:

Counsel for the Respondent : Adv. Deepak Shah (In Person)

1. **Background** of the Case:

1.1 In the year 2011 the Central Board of direct Taxes (CBDT) had provided information to the ICAI relating to the tax audit reports filed in 2010-11 by its members

1.2 On the basis of such information, it was observed that number of tax audit reports were filed by the assesses by quoting fake membership details and also membership number of deceased members

1.3 It was further observed that forty-four tax audit reports were uploaded against the membership number of Respondent whereas he was holding part-time COP at that time

2. Charges in brief:

The allegation against the Respondent relates to uploading Tax Audit Reports under Section 44AB of the Income Tax Act, 1961, against his membership number, despite having a part-time Certificate of Practice (COP) for the financial year 2010-11. It was further observed that, as per the details provided by the CBDT, the Respondent had uploaded forty-four Tax Audit Reports for the financial year 2010-11.

3. The relevant issues discussed in the Prima facie opinion dated 06th May 2025 formulated by the Director (Discipline) in the matter in brief, are given below:

3.1. In this regard, Section 6 (1) of the Chartered Accountants Act, 1949 and Para 6.1.5 of Chapter VI of Council General Guidelines, 2008 was noted.

3.2. Further the Council at its 241st meeting held on March 2004 decided that effective from 1st April 2005, any member in part-time practice (namely, holding certificate of practice and is also engaging himself in any other business and/or occupation) was not entitled to perform attest function, and that the resolution had been passed by the Council in pursuance of provision of Regulation 190A.

3.3. In In view of above provisions, certification of tax audit report by the Respondent despite having part-time COP was in clear violation of the Council General 6.7 Guidelines No.1-CA (7)/02/2008 and Regulation 190A.

3.4. It was observed that the Respondent in his submissions dated 7th March 2012 read with submissions dated 14th August 2023 had denied filing any tax audit report for the financial year 2010-11 under his membership number despite having part-time COP. On the contrary, in his submissions dated 23rd May 2012, he admitted that he had conducted tax audits during financial year 2010-11. He also submitted that he was permitted by the council of the ICAI vide letter dated 24/1112009 to be an Executive Director of a private limited Company with the condition that he can't perform attest function. However, since he was not drawing any remuneration, and the business of the Company was very much within the domain of a CA's Practice, therefore, to continue attest function and train articles, he wrote letter dated 18th December 2009 to ICAI requesting to allow him to continue the attest function. Since no reply received from ICAI, he wrote another letter dated 24th November 2010 to ICAI, however, no reply had been received from ICAI.

3.5. From the aforesaid submissions, it was evident that the Respondent was taking contradictory stands. In one of submission, he was admitting of having done the tax audit during the relevant

period when he was holding only part-time COP, however in another, he was denying the same. Thus, it appeared that the Respondent was trying to mislead this Directorate and was not coming with clean hands and as such his denial in his written statement cannot be accepted at this prima facie stage. It was further observed that the above-mentioned provisions became effective from 1st April 2005 and the tax audits in question were certified by the Respondent in the financial year 2010-11 i.e., almost after 6 years.

3.6. It was further observed that the Respondent in his admission dated 23.05.2012 had stated that he had conducted tax audits during FY 2010-11, however, he had not conducted any tax audit during FY 2011-12.

3.7. In this regard, even if the above version of the Respondent was accepted as true, even then admittedly the Respondent had conducted tax audits during the period where he was not holding full-time COP. In this regard, being a professional, the Respondent was required and expected to adhere with all the rules/regulations/guidelines being in force and such an act of the Respondent cannot be accepted.

3.8. It was further viewed that the highest standards of ethical behaviour and professional compliance to the guidelines prescribed are expected from the members of the profession and violation of any rules/ regulations1 guidelines was not acceptable. Moreover, Respondent even failed to submit copy of any of the letters written by him to ICAI and as claimed by him in his written statement.

3.9. Accordingly, the Director (Discipline) in his Prima Facie Opinion dated 06th May 2025 opined that Respondent was held GUILTY of Professional Misconduct falling within the meaning of Clause (1) of Part II of the Second Schedule to the Chartered Accountants Act 1949. The said clause of the schedule to the act. states as under:

Clause (1) of Part II of the Second Schedule:

A member of the Institute, whether in practice or not, shall be deemed to be guilty of professional misconduct, if he-

"(1) contravenes any of the provisions of this Act or the regulations made thereunder or any guidelines issued by the council".

3.10. The Prima Facie Opinion formed by the Director (Discipline) was considered by the Disciplinary Committee at its meeting held on 13th October 2025. The Committee on consideration of the same, concurred with the reasons given against the charge and thus, agreed with the Prima Facie opinion of the Director (Discipline) that the Respondent was GUILTY of Professional

Misconduct falling within the meaning of Clause (1) of Part II of the Second Schedule to the Chartered Accountants Act, 1949 and accordingly, decided to proceed further under Chapter V of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.

4. **Date(s)** of Written **Submissions/Pleadings by** parties:

4.1 The relevant details of the filing of documents in the instant case by the parties are given below:

S.No.	Particulars	Dated
1.	Date of Information	21st July. 2023
2.	Date of Written Statement filed by the Respondent	14'' August, 2023
3.	Date of Prima Facie Opinion formed by Director (Discipline)	06th May. 2025
4.	Written Submissions filed by the Respondent after PFO	05th January 2026 30th January, 2026

5. Written Submissions filed **by** the Respondent:

The Respondent vide letter dated 05'' January 2026, inter-alia, made the submissions which are given as under: -

5.1 That the information cannot be considered as valid and is not maintainable as the report is sent on 05th January 2023 in respect of audit of accounts of F.Y. 2010-11 (relevant to F.Y. 2009-10) reflecting a gap of more than 12 years. Due to lapse of time, no working papers or audit documents are available for the said period.

Preliminary Obiection raised bv the Respondent:

5.2 That as per Rule 12 of the Chartered Accountants (Procedure of investigation of Professional and Other Misconduct and Conduct of Cases) Rules 2007(the Rules for Short), a time limit of seven years is set for entertaining a complaint. The said rule provides as follows:

12. Time limit on entertaining complaint or information. - Where the Director is satisfied that there would be difficulty in securing proper evidence of the alleged misconduct, or that the member or firm against whom the information has been received or the complaint has been filed, would find it difficult to lead evidence to defend himself or itself, as the case may be, on account of the time lag, or that changes have taken place rendering the inquiry procedurally inconvenient or difficult, he may refuse to entertain a complaint or information in respect of any misconduct made more than seven years after the same was alleged to have been committed and submit the same to the Board of Discipline for taking decision on it under sub-section (4) of section 21 A of the Act

5.3 That he relied upon the provisions of "Consequential Amendment to Audit Documentation Retention period in standard on auditing (SA) *230"* that the statutory auditor is obliged to retain documents in relation to an audit for a period of seven years only.

5.4 Further, notice can be issued for any default within a reasonable period. The Supreme court of lndia in various cases has laid down that a period of more than *10* years cannot be considered as a reasonable period. The above view was affirmed by the Supreme Court on 24th August *2022* in the case of Union of lndia v. CITI bank N.A. in civil appeals no. *9337* of *2010.* Further, reliance was also placed on decision of Delhi High Court in case of Wholesale Trading Services P. Ltd. v. ICAI and others *(2019* SCC OnLine Del *9543)* whereupon a consideration of the provisions made under Rule *12* of *2007* Rules, the court has supported rejection of delayed complaints citing difficulty in securing evidence due to time lapse.

5.5 That on 7th February *2012,* a query was raised as to whether tax audit was conducted for F.Y. *2010-11,* to which a clear negative reply was provided. However, the information received from the CBDT alleges that he had conducted tax audit for F.Y. *2010-11* which can only be in F.Y. *2011-12,* thus creating a contradiction. There is a well-settled principle of law that the burden of proof lies on the person making the allegation. The Respondent contends that the authority has not provided the list of clients or sufficient evidence for whom he alleged to had conducted the tax audits. The basis on which guilt is alleged differs from the original information, and in the absence of concrete evidence, no violation of council guidelines can be established.

5.6 That the present matter is an information case, wherein the original information alleged that tax audit was conducted without full-time COP for F.Y. *2010-11.* However, the TAQRB report refers to audit conducted during F.Y. *2010-11* relating to F.Y. *2009-10,* thereby creating a clear contradiction between the information in possession and the findings of TAQRB. In the absence of proper and consistent information, the action is without any valid basis, and therefore the Prima Facie Opinion is not maintainable.

5.7 That the sole basis for holding the Respondent guilty appears to be the email dated 23rd May *2012,* which was confusing due to differences between the initial query and the subsequent information relied upon. The initial query pertained to F.Y. *2010-11,* while later reliance appears to be based on a different interpretation. Even in the latest reply to your letter dated 21st July *2023,* it has been reiterated that no audit was conducted for F.Y. *2010-11.* Therefore, it is not justified to hold guilty solely based on a single ambiguous reply.

5.8 Further, due to the lapse of more than eleven years from the start of the case (2012) to its final verdict (2023), there was a reasonable belief that the matter had been dropped, and no further action was to be taken against him.

The Respondent vide letter dated 30th January 2026, inter-alia, made additional submissions in furtherance to his earlier submission which are given as under: -

5.9 That this is a case of *"Information"* and not a complaint by any authority. Thus, it must be decided strictly based on information available on records.

5.10 That the information available with the authority is that the Respondent allegedly conducted tax audit for the financial year 2010-11, which has been categorically denied. Further, when information provided was in respect of conducting audit for the F.Y. 2010-11, the inquiry should have been restricted to that information and shouldn't have travelled beyond unless proper supporting evidence like list of clients were furnished. Relying on the settled legal principle that "the person who alleges has to prove it," it is submitted that the burden lies on the authority to substantiate the allegation.

5.11 Due to absence of any supporting evidence, no finding of guilt can be sustained. It is further submitted that even the information received from the CBDT is not full-proof and the authority's own letter dated 7th February 2012 acknowledges that the possibility of misuse of the membership number by others cannot be ruled out.

6. Brief facts of the Proceedings:

6.1 The details of the hearing(s)/ meetings fixed and heldladjourned in said matter are given as under:

S. No.	Date of meeting(s)	Status
1.	30th December 2025	Oath taken by Respondent and adjourned
2.	07th January 2026	Adjourned at the request of the Respondent.
3.	25th January 2026	Adjourned at the request of the Respondent.
4.	04th February 2026	Adjourned at the request of the Respondent.
5.	31st July 2026	Hearing Concluded & Findings Reserved.
6.		Decision Taken.

6.2 On the day of first hearing on 30th December 2025, the Committee noted that the Respondent along with his counsel were present before it through video conferencing. Being first hearing of the case, the Respondent was put on Oath. Thereafter, the Committee enquired from the Respondent as to whether he was aware of the charges against him and whether he pleads

guilty. The charges as contained in prima facie opinion were also read out. On the same, the Respondent replied that he is aware of the charges and pleaded 'Not Guilty' to the charges levelled against him. The Committee, looking into the fact that this was the first hearing, decided to adjourn the hearing in the case to a future date.

6.3 On the day of hearing on 07th January 2026, the Committee noted that the Respondent, vide email dated 06th January 2026 requested for an adjournment due to unavailability of his authorized representative on ground of medical emergency. Since the request for adjournment had been received for the first time and keeping in view of the principles of natural justice, the Committee acceded to the request and adjourned the hearing.

6.4 On the day of hearing on 25th January 2026, the Committee noted that the Respondent, vide email dated 21st January 2026 requested for an adjournment on the ground that his authorized representative will be out of station for an important meeting on the date of hearing and has already booked his trip in advance for same. Keeping in mind the principles of natural justice, to provide a fair and final opportunity to Respondent to present his case before the Committee, the Committee acceded to the request of the Respondent for the adjournment. Accordingly, the hearing in the case was adjourned at the request of the Respondent to provide a final opportunity to the Respondent to present his case before the Committee.

6.5 On the day of hearing on 04th February 2026, the Respondent was present before it through video conferencing. However, he requested to adjourn the hearing in the case due to non-availability of his authorized representative at the time when case was taken up for hearing. Looking into the ground on which request for adjournment of hearing had been made by the Respondent, the Committee, keeping in view the principles of natural justice, acceded to the request of the Respondent for the adjournment. Accordingly, the hearing in the case was adjourned at the request of the Respondent.

6.6 On the day of hearing on 31st July 2026, the Committee noted that the Counsel for the Respondent was present in person and appeared before it. Thereafter, the Committee noted that the case was part heard and the Respondent was already on oath. The Committee enquired from the Respondent that since the composition of the Committee had changed subsequent to the last hearing held on 30.12.2025 in this case, whether he wished to have a de-novo hearing by taking all submissionslrepresentations already on record or may continue from the stage it was last heard. The Respondent submitted that the proceedings in the instant matter(s) be continued from the stage these were last heard.

The Committee noted the allegation against the Respondent is regarding uploading of Tax Audit uls 44AB of the Income Tax Act, 1961 against his membership number despite having part-time Certificate of Practice (COP) for the financial year 2010-11. The Counsel submitted that the first communication in the matter was received in 2012 in relation to the tax audit report for the financial year 2010-11. He stated that a reply had been duly furnished at that time and that no further communication or proceedings took place for more than ten years. He thereafter referred to a letter dated 21st July 2023, to which he had again submitted a reply, requesting the list of tax audit reports for the financial year 2010-11 reported by the CBDT under his membership number. The Counsel contended that the information available with the Institute appeared to relate to audits conducted during the financial year 2010-11, whereas the allegation subsequently concerned audits conducted for the financial year 2010-11. He emphasized that these were distinct matters, as an audit conducted during a particular financial year may pertain to an earlier financial year.

The Counsel further submitted that he was not in possession of the relevant working papers and requested that the matter be considered based on the information and documents available on record. He relied upon judicial precedents, including decisions of the Delhi High Court, to support his submissions concerning delay and the respondent's ability to defend himself after a considerable lapse of time. The Committee noted the submissions of the Counsel for the Respondent.

Based on the documents and material available on record and afler considering the verbal and written submissions of the Respondent, the Committee concluded hearing in the matter and Findings were reserved.

6.7 At the meeting held on 15th October 2026, the Committee noted that the subject case was heard by it at length in the presence of the Respondent and the hearing was concluded at its meeting held on 31st July 2026 and the Findings were reserved. The Committee considered the material on record including submissions of the Respondent. The Committee deliberated in detail on the said case and took decision on the conduct of the Respondent.

7. Findings of the Committee: -

The Committee noted the background of the case as well as oral and written submissions made by the Respondent, documents1material on record and gives its findings as under: -

7.1 The Committee noted the preliminary objection raised by the Respondent that there was considerable time-lag in the matter. As per the Respondent, the first communication in the matter was received in 2012 in relation to the tax audit report for the financial year 2010-11. He stated

that a reply had been duly furnished at that time and that no further communication or proceedings took place for more than ten years. The Respondent submitted that, owing to such lapse, the relevant audit records/working papers are no longer available with him. In this regard, the Respondent referred to Rule 12 of the Chartered Accountants (Procedure of Investigation of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, which recognises the difficulty in securing proper evidence and in defending a matter where there is a substantial time-lag. Further, the Respondent also relied upon judicial pronouncements including the decision in Wholesale Trading Services Pvt. Ltd. v. *ICAI* by Delhi High Court wherein the effect of considerable delay and the resultant difficulty in securing evidence and effectively defending the proceedings was considered.

7.2 The Committee noted that the Respondent was specifically apprised of the issue as early as 2012 and had furnished his response thereto. Having once been put to notice of the specific matter, the Respondent was expected to remain conscious of the same, particularly when there was no communication indicating that the matter had been closed or concluded. Therefore, the Respondent cannot solely rely upon the subsequent lapse of time to evade his responsibility or contend that he is unable to substantiate his stand. Further, the Committee noted that Rule 12 is attracted in a situation / circumstance where on account of lapse of time, the Respondent faces any difficulty in securing proper evidence for his ▮ her defense and it does not ipso facto render the information ▮ complaint as not maintainable. Further, as regards reliance placed by the Respondent on Rule 12 of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, it is noted that the said provision confers a discretionary power upon the Director (Discipline) to examine whether a complaint ought to be entertained in cases involving delay, and does not impose a mandatory bar. The exercise of such discretion depends upon the facts and circumstances of each case, particularly where the alleged misconduct comes to light pursuant to an investigation conducted by a competent authority. In view of the above, the objection on limitation is not sustainable and is accordingly rejected. Thus, the preliminary objection raised by the Respondent is not tenable and the substantive allegation is accordingly considered hereunder on merits based on the material available on record.

7.3 The Committee noted that the charge against the Respondent is with respect to uploading of Tax audit uls 44AB of the Income Tax Act, 1961 against his membership number despite having part-time Certificate of Practice (COP) for the financial year 2010-11. The Committee observed that as per the details provided by CBDT, the Respondent had uploaded forty-four tax audit reports for FY 2010-11

7.4 The Committee in this regard noted that Section 6 (1) of the Chartered Accountants Act, 1949 states as under:

> "No member of the Institute shall be entitled to practice [whether *in* India or elsewhere] unless he has obtained from the Council a certificate of practice."

7.5 Further, the Committee noted that Para 6.1.5 of Chapter VI of Council General Guidelines, 2008 states as under:

"A Chartered Accountant being a part-time practicing partner of a firm shall not be taken into account for the purpose of reckoning the tax audit assignments of the firm".

7.6 The Committee noted that the Respondent in his reply dated 07th March 2012, had categorically stated that he had not conducted any Tax Audit for the F.Y. 2010-11. As per the Respondent, the CBDT information relied upon by the Institute indicates that Tax Audit Reports were uploaded against his membership number. Further, as per the submission of the Respondent, in the absence of client-wise particulars or other independent evidence connecting him with the actual conduct of the alleged tax audits, the mere reflection of his membership number in the information received from CBDT, does not by itself sufficiently establish the charge, particularly when specifically denied by him.

7.7 The Committee further noted the Respondent's contention regarding the apparent discrepancy concerning the financial year to which the alleged tax audits relate. As per the submission of the Respondent, the information received from CBDT alleged that the Tax Audits relate to FY 2010-11, which would ordinarily be conducted during FY 2011-12. However, the informationlreport of TAQRB refers to audits conducted during FY 2010-11 relating to FY 2009-10. Thus, as per the Respondent, there appears to be a discrepancy in the Information regarding the financial year to which the alleged Tax Audits pertained. The Respondent has also consistently stated that he did not conduct any Tax Audit for FY 2010-11.

7.8 The Committee also considered the Respondent's contention that his earlier communication dated 23rd May 2012 covered in para 3.3 has been relied upon against him. According to the Respondent, the aforesaid correspondence was confusing in nature, as the earlier letter dated 07th February 2012 required him to confirm whether he had conducted the tax audit for F.Y. 2010-11, to which he replied that he had not filed any Tax audit report for the F.Y. 2010-11 vide his letter dated 07th March 2012. However, the subsequent letter dated 01st May 2012 of ICAI sought confirmation as to whether he had conducted any Tax audit during F.Y. 2010-11 to which he replied that he had conducted Tax audit during the F.Y. 2010-11 vide letter dated 23rd

May 2012. The Respondent further contended that, in the circumstances, the possibility of misuse of his membership number could not be ruled out.

7.9 The Committee noted that the Respondent had submitted that the details of the tax audit allegedly reported by CBDT against his membership number were not available. The Committee also observed the distinction between audits conducted during the relevant financial year and conducted for the relevant financial year to be material, as an audit conducted during a particular financial year may relate to an earlier financial year. Accordingly, in the absence of sufficient independent documentary or corroborative evidence establishing the charge that the Respondent conducted the alleged tax audit for the relevant financial year (i.e. 2010-11), the Committee opined that the responsibility for the alleged conduct of the tax audit for the relevant F.Y. 2010-11 cannot be fastened upon the Respondent. Consequently, the Committee considered it appropriate to extend the benefit of doubt to the Respondent.

7.10 Accordingly, the Committee is of the opinion that the Respondent is Not Guilty of Professional Misconduct falling within the meaning of Clause (1) of Part II of the Second Schedule to the Chartered Accountants Act, 1949.

8. Conclusion:

In view of the findings stated in above paras, vis-a-vis material on record, the Committee gives its charge wise findings as under:

Charges (as per PFO)	Findings	Decision of the Committee
Para 2 as above	Para 7.3 to 7.10 as above	**Not Guilty**- Clause (1) of Part II of the Second Schedule

9. In view of the above observations, considering the material on record including verbal and written submissions of the Respondent, the Committee held the Respondent NOT GUILTY of Professional Misconduct falling within the meaning of Clause (1) of Part II of the Second Schedule to the Chartered Accountants Act, 1949.

10. ORDER

Accordingly, in terms of Rule **19** (2) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, **2007,** the Committee passes an Order for closure of this case against the Respondent.

Sd/-
(CA. PRASANNA KUMAR D)
PRESIDING OFFICER

Sd/-
(CA. MAHESH SHAH)
GOVERNMENT NOMINEE

Sd/-
(CA. **SATISH** KUMAR GUPTA)
MEMBER

Sd/-
(CA. HANS RAJ CHUGH)
MEMBER

DATE: **29.10.2026**
PLACE: Noida

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